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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 BRIAN JUDAH MICHALEK,

7 Plaintiff,

8 v.

9 LILLIAN POWERS KAIDE, et al.,

10 Defendants.

Case No. C19-5605-RJB-TLF

ORDER DIRECTING CLERK TO
FILE 28 U.S.C. § 2241 HABEAS
PETITION UNDER NEW CASE
NUMBER

11 This matter comes before the Court on plaintiff's filing of an amended complaint (Dkt.
12 18) in this ongoing 42 U.S.C. § 1983 case along with a separate 28 U.S.C. § 2241 petition for
13 writ of habeas corpus (Dkt. 19) under the same case number. By order dated August 29, 2019,
14 the Court instructed plaintiff that if he intended to challenge the fact of his custody and sought
15 immediate release, his claims are properly raised in a §2241 petition rather than a § 1983 action
16 and that to the extent he intended to pursue his § 1983 claims based on alleged civil rights
17 violations he must either: (1) show cause why his claims should not be dismissed pursuant to
18 *Younger v. Harris*, 401 U.S. 37, 45, 46 (1971); or (2) file an amended complaint with allegations
19 of fact (if such facts exist) that would address this issue. Dkt. 14. By order dated September 26,
20 2019, the Court granted plaintiff an extension of time to file an amended complaint. Dkt. 17.

21 Plaintiff subsequently filed an amended complaint in this ongoing 42 U.S.C. § 1983 case
22 (Dkt. 18) but also filed a separate 28 U.S.C. § 2241 petition for writ of habeas corpus under the
23 same case number (Dkt. 19). Accordingly, the Clerk is directed to file plaintiff's 28 U.S.C. §
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1 2241 habeas petition (Dkt. 19) under a new case number and notify him of the requirements for
2 paying the filing fee or proceeding *in forma pauperis* in that case.

3 Dated this 28th day of October, 2019.

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Theresa L. Fricke
6 United States Magistrate Judge
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